

case to induce me to do so without subjecting the complainant to costs.

Some of the defendants, it is true, have admitted the agreement, and consented to a decree; but as the complainant has failed in establishing his case against the infant defendants in a point vital to his right to the interposition of this court, no course is left but to dismiss his bill.

Assuming that the complainant gave the receipt to his mother, in consideration of her agreeing to convey him this land, an assumption, however, of which there is no evidence, his possession, and enjoyment of the rents and profits for four years, according to the proof, has most abundantly reimbursed him, as well as for the improvements which he has put upon the property.

[The decree in this case was reversed on appeal.]

WILLIAM HARNESS ET AL.
vs.
THE CHESAPEAKE AND OHIO
CANAL COMPANY ET AL.

JULY TERM, 1848.

[THE RIGHT OF EMINENT DOMAIN—INJUNCTION—INTEREST—JUDGMENT—
MERGER.]

THE principle, that the right of eminent domain authorizes the government to take and appropriate private property for public uses, without making compensation to the owner, unless there is some provision in the constitution restrictive of the power, cannot be maintained in Maryland.

Such an appropriation by law, without compensation, would be in conflict with the sixth and twenty-first articles of the bill of rights, the latter of which declares—"that no freeman ought to be taken, or imprisoned, or dis-seized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty or property, but by the judgment of his peers or the laws of the land."

To say, that the legislature has such power, is to confer upon it judicial powers, and to confound those departments of government, which the declaration of rights says, shall be kept forever, separate and distinct.

The legislature of this state, has in no instance, in the exercise of the right of